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JAN 29 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 8082

UNITED STATES OF AMERICA,
Plaintiff,
v.
Luis Enrique FONSECA-Diaz,
Defendant.

Magistrate Case No.:
COMPLAINT FOR VIOLATION OF
21 U.S.C. § 952 and 960
Importation of a Controlled Substance (Felony)

The undersigned complainant being duly sworn states:

That on or about January 28, 2008, within the Southern District of California, defendant Luis Enrique FONSECA-Diaz, did knowingly and intentionally import approximately 57.90 kilograms (127.38 pounds) of marijuana, a Schedule I Controlled Substance, into the United States from a place outside thereof, in violation of Title 21, United States Code, Sections 952 and 960.

The complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

LORENA MULVIHILL
Special Agent
Immigration and Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, JANUARY 29, 2008.

PETER C. LEWIS
U.S. MAGISTRATE JUDGE

UNITED STATES OF AMERICA
v.
Luis Enrique FONSECA-Diaz

STATEMENT OF FACTS

This complaint is based on the personal observations, investigation, and information furnished to U. S. Immigration and Customs Enforcement Special Agent Lorena Mulvihill.

On January 28, 2007, at approximately 1353 hours, Customs and Border Protection Officer (CBPO) L. Garcia was assigned to primary lanes at the Calexico, California West Port of Entry when a 1993 Ford Bronco approached for entry.

CBPO L. Garcia encountered the operator and sole occupant of the vehicle identified as Luis Enrique FONSECA Diaz. CBPO L. Garcia received a negative Customs declaration from FONSECA and noticed he appeared nervous. CBPO L. Garcia referred FONSECA and the vehicle to the vehicle secondary lot for further examination.

In the vehicle secondary area, CBPO D. Morris approached FONSECA and the vehicle for inspection. CBPO D. Morris inspected the spare tire and observed it had a new valve stem. CBPO D. Morris released area from the spare tire and noticed a strong soap or fabric softener smell. CBPO D. Morris requested CBP Canine Enforcement Officer (CEO) C. Anzaldo to screen the vehicle with his Narcotic Detector Dog (NDD). NDD alerted to the vehicle. CBP CEO C. Anzaldo informed CBPO D. Morris of the alert.

CBPO D. Morris resumed examination of the vehicle and discovered several packages concealed within the spare tire and roof of the vehicle. CBPO D. Morris removed a package and probed the package exposing a green leafy substance. A sample of the substance was tested and proved positive for marijuana. A total of twenty (20) packages, with a total weight of 57.90 kilograms (127.38 pounds) were removed from the vehicle.

FONSECA was advised of his rights per Miranda. FONSECA stated he understood his rights and was willing to waive his rights and make a statement. FONSECA stated he didn't know what was in the vehicle, but was told there was something in the vehicle. FONSECA stated he was to receive $2,000.00 to deliver the vehicle to Calexico, CA.